



JOHN ENGLER, Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY

"Better Service for a Better Environment"

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REPLY TO:

WASTE MANAGEMENT DIVISION
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OPERATIONAL MEMO 111-21

November 3, 1999

TO: All Waste Management Division Supervisors

FROM: Jim Sygo, Chief, Waste Management Division

SUBJECT: Responding to Illegal Disposal of Hazardous Waste and Liquid Waste in Solid Waste Landfills

This Operational Memorandum provides guidance to encourage consistent compliance and enforcement responses by Part 111 and Part 115 program staff to illegal disposal of hazardous waste and liquid waste in solid waste landfills.

Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.11101 et seq., specifies the requirements for proper management of hazardous waste. One of these requirements is that a person who treats, stores, or disposes of hazardous waste have a construction permit or operating license issued pursuant to Part 111.

Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.11501 et seq., specifies the requirements for proper operation of solid waste landfills. Hazardous waste and liquid industrial waste (with the exception of recirculated leachate) are prohibited from disposal in Michigan solid waste landfills by Part 115, Rule 315(8)(c) (type III landfills), and Rule 430(2)(a) (type II landfills).

In general, our goal will be to intervene in time to prevent illegal transport or disposal, compel the removal of all prohibited waste from the landfill, and ensure proper disposal of rejected or excavated hazardous waste. The specific objectives of responses to illegal waste transport and disposal complaints will depend upon the nature of each case.

In order to provide effective and consistent responses to illegal transport and disposal of hazardous waste, the following procedures shall be followed:

I. RESPONSE READINESS

- A. Part 115 program staff are encouraged to prepare for illegal disposal complaint responses by joining Part 111 staff on several routine inspections, as well as specific complaint inspections of hazardous waste generators. The purpose of this training is to learn how regulated wastes may be identified by labels, typical container types, and how to identify certain wastes by appearance if not properly labeled or managed in containers. Attention should also focus on Part 111/Part 121, Liquid Industrial Waste, waste characterization and documentation.

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- B. Part 111 program staff, with Part 115 program staff assistance, are encouraged to conduct desk reviews of solid waste landfill operating license conditions which specify requirements for waste profiling and acceptance, and screening at landfill gates and working faces for landfills in their respective districts. Part 111 staff are encouraged to accompany Part 115 staff on several routine landfill inspections to obtain familiarity with landfill operating procedures and waste acceptance practices and recordkeeping.

II. TIMELY RESPONSE

- A. When hazardous waste is reported as being staged for illegal loading at the generator, illegally loaded on an unlicensed vehicle at the time of the complaint, or discovered on the road without a manifest or aboard an unlicensed vehicle at the landfill gate, inspection pad, or working face, the first available Waste Management Division field staff person, regardless of program, should immediately conduct a complaint inspection. The situation in the field which caused the complaint should be documented by careful observation before conditions change. The purpose of the initial complaint inspection is to collect information and copies of pertinent documents, take photos or video, conduct preliminary interviews, and temporarily intervene to prevent illegal waste transport, unloading, mixing, or burial (if already unloaded) until appropriate staff can become involved.
- B. Information collected in the initial response will be used to support a determination by the respective program staff of violations and the need for follow-up inspections and remedial actions. Initial responders dealing with counterpart program issues should advise facilities during the complaint response that the preliminary inspection is focused on collecting information and that program experts will review the findings to evaluate the facility actions and to determine any violations or the need for further investigation.
- C. Waste removal from cell locations which would place cell integrity or landfill structures at risk should be done in accordance with a work plan approved by the district supervisor.

III. ENFORCEMENT CONSISTENCY REVIEW

- A. Findings should be discussed with counterpart staff and the District Supervisor. Always share the findings with the district Office of Criminal Investigations (OCI) staff so that OCI can determine potential impact on current investigations and whether an investigator should be assigned to the case.
- B. If the complaint and inspection information indicate that hazardous waste was improperly transported, presented to a solid waste landfill, or illegally disposed of, staff should telephone the Enforcement Section Chief and present a brief summary of the findings and advise of any OCI investigator interest. The Enforcement Section Chief will evaluate the incident and provide a referral recommendation. If the case is to be referred for enforcement, the enforcement referral should be initiated at the time of discovery of the violation and prior to negotiations and approval of action to remedy the violations. Negotiation of the violation remedies should include Enforcement Section staff and should be conducted in the context of enforcement settlement negotiations.

